



W.P.No.24871 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.04.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.24871 of 2021

and

WMP.No's 26178 , 26181 and 26183 of 2021

M.Dhandapani

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai- 606 604
Thiruvannamalai District.

2. The Deputy Registrar of Cooperative Societies,
Thiruvannamalai Circle,
Thiruvannamalai 606 604
Thiruvannamalai District.

3. The President,
V.T.645, Vengikkal Primary Agricultural
Cooperative Credit Society,
Vengikkal 606 604,
Thiruvannamalai Taluk and District.

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the 3rd Respondent in No.Nil dated 11.05.2021 (ante-dated order, actually passed in September 2021 and served on the petitioner on 07.09.2021) and to **QUASH** the same and consequently directing the Respondents to reinstate the Petitioner into service as per the order dated 11.05.2021 issued by the 3rd Respondent, with all consequential and other attendant service benefits.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.S.Ravikumar,
Special Government Pleader,
for RR1 and 2
No appearance for R3

ORDER

The writ petition is filed for a writ of certiorarified mandamus, challenging the impugned order of the 3rd respondent, dated 11.05.2021, cancelling the reinstatement order dated 11.05.2021, as arbitrary, illegal and against the law.

2. The brief facts are that the petitioner who was a Secretary of the 3rd respondent Society, was placed under suspension for lack of supervision with effect from 27.12.2017, consequent to the initiation of a criminal case against the cashier, R.Subramanian, for misappropriation of funds. Though the petitioner was



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suspended from 2017, he was not paid subsistence allowance from the date of suspension as is statutorily mandated. The petitioner was kept under prolonged suspension and in pursuance of the repeated representations of the petitioner, the 3rd respondent issued the order dated 11.05.2021, reinstating him into service. The petitioner joined service on 11.05.2021, itself and continued to draw salary between May and June, 2021. Eventhough the salary for the month of July and August was sanctioned, the same was not paid to the petitioner. While so, the impugned order dated 11.05.2021, came to be passed by the 3rd respondent cancelling the reinstatement order with a direction to pay back the salary received by the petitioner from 11.05.2021 to 30.06.2021. Aggrieved by the revocation of the reinstatement order, the petitioner filed the above writ petition for the aforesaid relief.

3. The respondent filed detail counter denying all the allegations and contentions raised by the petitioner. The respondents stated *inter alia* that the writ petition was not maintainable in view of the judgment of this court in the case of *M.Marappan versus The Deputy Registrar of Co-operative Societies, Namakkal circle and others*, reported in 2006 (4) CTC 689. The respondents submitted that the 3rd respondent's board of directors' resolution dated 11.05.2021, to reinstate the

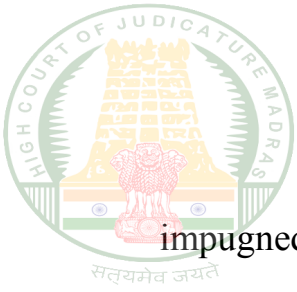


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petitioner was passed without consulting the department's higher administrative authorities and by overlooking the criminal cases. On coming to know that the petitioner's post of Secretary was covered by the common cadre services, the board of management rectified the erroneous order of reinstatement dated 11.05.2021, by passing fresh resolution on 10.08.2021, cancelling the earlier resolution passed on 11.05.2021. Hence the petitioner was restored to the original post vide the impugned order dated 11.05.2021. The respondents further submitted that the petitioner who was the Secretary of the 3rd respondent Society, during the relevant period was the main cause for the serious irregularities which resulted in the loss to the tune of Rs.1.08 Crores to the Society and therefore, the impugned order could not be faulted. The respondents hence submitted that the writ petition was devoid of merits and same deserved to be dismissed.

4. The learned counsel for the petitioner submitted that the impugned order deserved to be set aside, as the same was ante-dated which would be evident from the impugned order itself and the counter filed by the respondents. The learned counsel further submitted that the respondents were bound to issue a notice to the petitioner before revoking the reinstatement order and failure to do so, violated the principles of natural justice. The learned counsel therefore submitted that the



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impugned order was unsustainable and same deserved to be set aside and the writ

petition allowed.

5. The learned Additional Government Pleader reiterated the submissions made in the counter affidavit and submitted that the writ petition lacked merit and hence the same deserved to be dismissed.

6. I have heard both the learned counsels and perused the materials placed on record.

7. The petitioner was placed under suspension on 27.12.2017, for misappropriation of funds along with the cashier of the 3rd respondent Society. After prolonged suspension, the petitioners suspension order was revoked on 11.05.2021, by the board of directors of the 3rd respondent vide resolution dated 11.05.2021 and thereafter the petitioner was reinstated. The petitioner joined service on 11.05.2021, and he was paid salary for the month of May and June. While so, the impugned order dated 11.05.2021, was passed cancelling the reinstatement order dated 11.05.2021, directing the petitioner to pay back the



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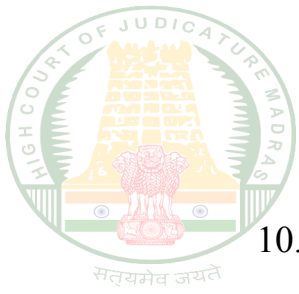
salary received by the petitioner up to 30.06.2021.

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8. As rightly contended by the learned counsel for the petitioner, the impugned order appears to be ante-dated. Admittedly the petitioner was reinstated on 11.05.2021, albeit, without consulting the department's administrative authorities. Moreover, the respondents in the counter clearly admitted that on coming to know that the petitioner was covered by the common cadre service, the board of Directors passed a fresh resolution on 10.08.2021. The said admission clearly establishes that the impugned order was ante-dated. If the resolution was passed only on 10.08.2021, it is inconceivable that the order cancelling the petitioner's reinstatement could have been passed on 11.05.2021 – particularly when the petitioner was paid salary for the months of May and June. Accordingly, I find that the impugned order is arbitrary, illegal and unsustainable in law.

9. That apart, while cancelling the reinstatement order, the petitioner was not issued with any notice. Even without affording an opportunity to the petitioner, the impugned order was passed in total violation of principles of natural justice, I am therefore of the view that the impugned order suffers from multiple infirmities and therefore the same deserves to be set aside.

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10. In the light of the above discussions, the impugned order dated 11.05.2021, is set aside and the matter is therefore remitted to the 1st respondent for fresh consideration. The petitioner is directed to submit a representation to the 1st respondent for subsistence allowance and for reinstatement within a period of two (2) weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a similar representation to the 3rd respondent. On receipt of the petitioners representation, the 1st respondent shall consider and pass appropriate orders on merits and in accordance with law, within a period of four (4) weeks thereafter.

In view of the aforesaid directions, writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Neutral Citation: Yes/No
Speaking order: Yes/No
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To

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N.MALA,J.

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